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PRC STATE COUNCIL BULLETIN

No. 1, 20 January 1985



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CHINA REPORT

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PRC STATE COUNCIL BULLETIN

No 1, 20 January 1985

Beijing ZHONGHUA RENMIN GONGHEGUO GUOWUYUAN GONGBAO [PRC STATE COUNCIL BULLETIN] in Chinese No 1, 20 Jan 85

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REGULATIONS ON CONTRACTS FOR PROCESSING JOBS ISSUED

Beijing STATE COUNCIL BULLETIN in Chinese No 1, 20 Jan 85 pp 5-10

[Regulations on Contracts for Processing Jobs Promulgated by the State Council on 22 December 1984]

(Guofa [0948 4099] (1984) No 182)

[Text] Chapter I. General

Article 1. These regulations are formulated in accordance with the "PRC Economic Contract Law." (Published in issue No 26, 1981, of this BULLETIN)

Article 2. A contract for a processing job is an agreement by which the contractor undertakes the responsibility to finish a certain job in accordance of the assignor's demands while the assignor accepts the job finished by the contractor and pays him the remuneration fixed beforehand.

Article 3. These regulations are applicable to contracts for processing, orders for the manufacturing of goods, repair, maintenance, printing, advertisement, surveying and testing, between legal persons.

Contracts for processing jobs between individual traders, rural commune members, specialized households, or key households as one party, and a legal person as the other, should be executed by referring to these regulations.

Chapter II. The Establishment and Implementation of Contracts

Article 4. When the contract is established, the assignor should make clear the quantity, quality and other specific requirements related to the job or project it assigns by the contract, while the contractor should faithfully provide the information about the relevant capacity of its equipment, technical conditions and level of technology.

Article 5. A contract for processing jobs should be provided with the following terms:

1. the name of the job or thing to be processed by the contract;
2. the quantities, quality, packing and processing methods;
3. the supplies, specifications, quantity and quality of raw materials;
4. the price or remuneration;
5. the time, place and method for execution of the contract;
6. the standards and methods for checking before acceptance;
7. the method for settling account, the account number and name of the bank through which payments are made;
8. the penalty for breach of contract; and
9. other terms that both sides have agreed to.

The technical agreements and materials and the blueprints related to the contract are also constituent parts of the contract.

Article 6. The two sides should fix through negotiation the quality and technical standards for the contracted job or project. The standards for the implementation of the contract and the code number and name of the standards should be clearly written into the contract. The parties concerned should not sign any contract that does not contain quality requirements or technical standards.

Article 7. In contracts for processing of products, samples for the contracted products should be sealed in the presence of the representatives of both parties and be properly preserved as a basis for the checking for acceptance.

Article 8. Price and remuneration for contracted jobs should be decided in accordance with the regulations of the state or the responsible departments or, if there are no such regulations, be fixed by the parties concerned through negotiation.

Article 9. In accordance with the relevant regulations of the state, the assignor can pay a deposit to the contractor. The amount of the deposit should be fixed by the two parties through negotiation. If the assignor fails to execute the contract, it has no right to demand a repayment of the deposit. If the contractor fails to execute the contract it has to make a repayment double the amount of the deposit.

Article 10. In accordance with the relevant regulations of the state, through the agreement of the two parties concerned, the assignor can make a prepayment to the contractor. If the contractor fails to execute the contract, in addition to shouldering the responsibility incurred by the breach of the contract, the contractor should repay in full the prepayment that it has received. If

the assignor fails to execute the contract, it can use the prepayment for the payment of damages and request repayment of any of the balance.

Article 11. If the job is completed by using the raw materials supplied by the contractor, the contractor should select the raw materials in accordance with the terms of the contract and allow the assignor to check the raw materials. If the contractor conceals defects in the raw materials or uses raw materials that do not meet the terms of the contracts and thus affects the quality of the job, the assignor is entitled to demand replacement, reparation, reduction of the job price or, return of the products delivered.

Article 12. If the job is being completed with raw materials provided by the assignor, the contract should have clear terms on the quantities of raw materials to be consumed. The assignor should provide the raw materials at the time and in the quantities, quality and specifications stipulated by the contract. The contractor should promptly check, in accordance with the terms of the contract, the raw materials provided by the assignor. If the raw materials are found to fall short of the requirements, the contractor should immediately inform the assignor and tell it to make a new delivery of raw materials to replace the defective ones and make up for the shortage. The contractor is not allowed to replace the raw materials provided by the assignor with its own raw materials without authorization, nor is it allowed to stealthily replace the components of the thing contracted to it for reparation.

Article 13. The contractor should complete the job in accordance with the terms of the contract and with the technical conditions demanded by the assignor. It should not make any alteration without the consent of the assignor.

The contractor should shoulder responsibility for the quality of the entire job contracted to it.

Article 14. When the contractor discovers anything irrational in the blueprints or technical requirements at the time it is doing the job in accordance with the demand of the assignor, it should promptly inform the assignor; while the assignor should give a reply and opinions on the revision within a prefixed time. If the contractor does not receive any reply after the prefixed time expires, it is entitled to stop the work and inform the assignor, which should compensate the losses that the contractor has thus incurred.

Article 15. If the assignor wants the contractor to keep the job contracted to the contractor a secret, the contractor should strictly maintain the secrecy, and is not allowed to keep any technical data or duplicate of the product without the permission of the assignor.

Article 16. During the time when the contractor is doing the job, it should accept the necessary checking of the assignor, but the assignor should not hinder the normal work of the contractor.

Article 17. In case of any disputes between the parties concerned on the checking of the quality of the job or project contracted, they can ask authorized quality supervision and checking organizations to provide them with certificates of checking.

Article 18. The delivery of the job should be made within the period stipulated by the contract. If any party to the contract wants a delivery before or after the stipulated date, it should reach an agreement with the other party beforehand and then they should act in accordance with the agreement.

Article 19. The calculation of the date of delivery: If the contractor makes the delivery with its own transport facilities, the date of delivery should be the date on which the delivery is acknowledged by the consignor by initialing a date on the delivery note. If the delivery is consigned to the transport department, the date of delivery should be the date on which the department undertaking the delivery initials the document by which it undertakes the freight. If the assignor takes the delivery from the contractor, the date of the delivery should be the date that the contractor informs the assignor that it is taking the delivery. But the contractor must in its notice for delivery provide for the time needed by the assignor to make the journey for taking delivery. If the two parties have agreed to any other method of calculation, they should proceed accordingly.

The calculation of the delivery dates of the raw materials and other things should be in accordance with the above regulations.

Article 20. The contractor should check and accept the job completed by the contractor within the time fixed by the contract. Before checking for acceptance, the contractor should provide the assignor necessary technical data and relevant quality certificates.

For jobs or projects in which it is hard to discover quality defects in a short-term check, the two parties should fix a guarantee period through negotiation. Except for quality problems caused through the improper usage and care of the assignor, any quality problem that emerges within the period of guarantee should be solved by the contractor through reparation or replacement.

Chapter 3. Responsibilities for Breach of Contract

Article 21. The responsibilities of the contractor when it commits breach of the contract:

1. If the products ordered by the contract or the jobs completed fail to meet the quality requirements stipulated by the contract but the assignor agrees to use them, the prices should be refixed in light of the quality; and if the assignor does not agree to use them, the contractor is obliged to repair or replace them and shoulder the responsibility for late delivery. If after the reparation and replacement, the quality still fails to meet what is stipulated by the contract, the assignor has the right to refuse acceptance of delivery and the contractor should compensate all the losses that the assignor has thus incurred.

2. If the contracted goods delivered or the job completed fall short of the quantities or amount stipulated by the contract, but the assignor continues to want full delivery, full delivery should be made and that part of the delivery which is delayed should be regarded as delayed delivery. If the assignor no longer needs full delivery, it is entitled to terminate the contract and the contractor has to compensate any losses that the assignor has thus incurred.

3. If the contracted goods are not packed in accordance with the terms of the contract and need to be repaired and repacked, the contractor should be responsible for the reparation and repacking and undertake the expenses incurred. If, instead of demanding reparation and repacking, the assignor demands damages, the contractor should pay the damages equal to the disparity of the value between the unacceptable and acceptable packing. If any destruction or losses have been caused by packing that does not meet the terms of the contract, the contractor should compensate the other party for the losses incurred.

4. The contractor should pay the assignor damages for breach of contract for late delivery in accordance with the terms of the contract. If there are no concrete terms in the contract on this, the damages should be calculated on the value of the goods delivered late in accordance with the rate stipulated by the regulations of the People's Bank of China on delayed payments. If the late delivery is on a job on which remuneration is paid, the damages should be 0.1 percent a day of the value of the part of the job on which there is late delivery.

If the assignor has not given consent to the contractor beforehand for early delivery, it is empowered to refuse early delivery.

5. If the contractor fails to deliver the contracted goods or complete the contracted jobs, it should pay damages equal to 10 to 20 percent of the contracted value of the goods that are not delivered or equal to 20 to 60 percent of the remuneration for the jobs.

6. If contracted goods which do not meet the requirements of the contracts are delivered to the assignor who is not located in the same place as the contractor and who has to take care of the goods for the contractor for some time, the contractor should compensate the assignor for the expense of care and maintenance that the latter has actually incurred.

7. If the contractor is responsible for finding someone to send or itself sends the contracted goods to the assignor, but the goods are sent to the wrong places or wrong units (persons), the contractor is obliged to further send the goods to the stipulated places or the accepting units (or persons), and is also obliged to pay for the additional freight incurred and the damages for late delivery.

8. The contractor should compensate the assignor for any losses of raw materials, equipment, packing materials and other materials and goods that the

assignor has provided the contractor, if the losses are caused by the contractor because of unsatisfactory care.

9. If the contractor fails to check the raw materials provided by the assignor in accordance with the methods and time stipulated by the contract, or if after discovering anything that does not meet the requirements of the contract in the checking, the contractor fails to inform the assignor for replacement within the time stipulated by the contract, the contractor should shoulder responsibility on its own for the quality and amount of the work.

10. If the contractor uses any substitutes for the raw materials provided by the assignor or for the components of the object whose reparation is contracted to the contractor, the assignor is entitled to refuse acceptance and the contractor must compensate the assignor for the losses thus incurred. If the assignor demands replacement or renewed reparation, the contractor must obey the demand and shoulder the responsibility for late delivery.

Article 22. Responsibilities of the assignor in case of breach of contract:

1. If the assignor wants to change the amount, specifications, quality or design of the jobs midway in the contract, it should compensate the contractor for the losses thus incurred.

2. If the assignor terminates the contract before it is fully executed, if the raw materials are provided by the contractor, the assignor has to pay damages equal to 10 to 30 percent of the contracted value of the unexecuted part of the contract; if the raw materials are not provided by the contractor, the assignor has to pay the contractor damages that are equal to 20 to 60 percent of the remuneration for the unexecuted part.

3. If the assignor fails to provide the raw materials, technical data, packing materials and so on in accordance with the time and requirements stipulated by the contract or if it fails to finish the necessary supplementary or preparatory work, the contractor is entitled to terminate the contract and the assignor must compensate the contractor for any losses thus incurred. If the contractor does not want a termination of the contract, in addition to allowing the corresponding delay of delivery, the assignor must pay damages to the contractor for the losses it has incurred through waiting for materials.

4. If the assignor takes delivery of the contracted goods after the contracted delivery date, in addition to paying damages for breach of contract in accordance with paragraph 5 of this article, the assignor must pay the contractor for the expenses incurred in taking care of and maintaining the goods. If the assignor fails to take delivery more than 6 months after the contracted delivery date, the contractor is entitled to sell the contracted goods, deduct from the proceeds of the sales the remuneration and expenses incurred in taking care of and maintaining the goods, and pay the balance to the assignor. If after the deduction, there is a debit balance, the assignor must pay the balance. If the contracted goods cannot be sold, the contractor must be paid for its losses.

5. If payments are delayed after the date stipulated by the contract, the assignor should pay damages for breach of contract to the contractor in accordance with the regulations of the People's Bank of China on delay of payments. In case of remuneration, the damages are 0.1 percent per day of the total amount of remuneration.

6. If the assignor refuses to accept the delivery without any reason, it should compensate the contractor for losses and penalties charged by the transport department that the contractor has thus incurred.

7. If the assignor wants to alter the place of delivery or the units (persons) which are to accept the delivery, it has to pay for the additional expenses thus incurred.

Article 23. If the contracted goods or raw materials are destroyed or lost owing to causes outside one's control within the term for the execution of the contract, if the contractor obtains legal evidence to this effect, it can be exempted of responsibility for breach of contract; however, it should conscientiously adopt measures to reduce losses as much as possible. If this happens after the period of execution, the contractor's responsibilities cannot be exempted. If the destruction and losses take place in a period when the assignor delays taking delivery or after it refuses to take delivery without justification, the assignor should shoulder the responsibilities and compensate the contractor for the losses.

Chapter 4. Supplementary Regulations

Article 24. The parties concerned should solve disputes related to contracts for processing jobs through negotiation. If they fail to achieve this through negotiation, any one of them can apply for mediation or arbitration to the contract administration department or directly start legal proceedings at the people's court.

Article 25. The relevant departments of the State Council, and the various provincial, autonomous regional and municipal governments can formulate implementation regulations in accordance with these regulations.

Article 26. These regulations come into force on 1 February 1985.

CSO: 4005/1182

CIRCULAR ON INDISCRIMINATE BONUSES, ALLOWANCES ISSUED

Beijing STATE COUNCIL BULLETIN in Chinese No 1, 20 Jan 85 pp 10-11

[State Council Circular on Resolutely Stopping Various Institutions From Indiscriminately Issuing Bonuses, Allowances, or Bonuses in Kind (28 December 1984)]

(Guofa [0948 4099] (1984) No 186)

[Text] In order to inspire enthusiasm in the workers and staff of scientific research, design and higher learning institutions, it is necessary to issue some bonuses within the limits of regulations. It is also proper to issue bonuses of an appropriately large, even significant, amount to an individual who has really achieved an invention or creation and made great contributions. It is learned, however, that at present the practice of the reckless issuance of bonuses, allowances, or bonuses in kind is very serious, and the practice is showing signs of getting even worse in some institutions.

Many units are competing in the practice, resulting in higher and higher standards and more and more pretexts for such rewards. In some units, the sources of funds used for these purposes are also questionable. If this practice remains unchecked, it is bound to cause undesirable consequences and chain reactions and will become extremely detrimental to our efforts to have party style and social trends take a turn for the better. To effectively stop the institutions from recklessly issuing bonuses, allowances, or bonuses in kind, the State Council has set forth the following rules in its circular:

1. All institutions must strictly abide by state regulations and rules on the issuance of bonuses and allowances. No unit or individual is permitted to arbitrarily broaden the limit or raise the ceiling for such issuances, not to mention inventing pretexts for issuing bonuses or allowances. A department in charge of an institution should carry out supervision and inspection in accordance with state regulations and guard against supporting the institution in the practice under any pretext or against arbitrarily giving a green light to its uncontrolled issuance of bonuses and allowance. Where a violation is committed, an investigation will be carried out to determine responsibility of the leaders concerned and the individuals involved. Disciplinary measures will be taken if the case is serious.

2. All institutions must strictly observe the regulations concerning the financial system and management of cash and make sure that all income and expenses are entered in the account book. It is not permissible to convert budgeted income into unbudgeted income, retain the portion of income destined for the state treasury as a unit's own income, or keep unauthorized petty cash for unbudgeted discretionary disbursements. All units should seriously take stock of their petty cash in connection with this year's yearend final accounting and dispose of it in accordance with the relevant state regulations.

3. Bonuses and allowances issued in excess of the limits set by the state should be paid back by exactly the same excess amount. If the repayment cannot be made in the same year, the unpaid amount may be deducted from bonus and allowance entitlements the next year. Bonuses in kind should be computed as cash according to their original prices and counted as part of the total amount of a bonus.

4. Any unit that violates the previously mentioned rules and continues to recklessly issue bonuses and allowances will be subjected to a review during next year's wage reform to see if it should be made to contribute more toward its share of the fund for wage payments or if the excess amount it used as bonuses and allowances should be deducted accordingly from the target amount of its capital increase.

5. All localities, departments and units should act in accordance with the stipulations in this circular to carry out, in conjunction with party rectification, an investigation into their institutions' practice of recklessly issuing bonuses, allowances and bonuses in kind. Any unit or individual that has seriously violated state regulations should, after the violations have been investigated and verified as true, be dealt with publicly. Auditing offices, labor and personnel departments, and financial departments at all levels should investigate the key cases. The units concerned must make truthful reports on what they have found without concealing any facts. The people's governments of all provinces, autonomous regions, and municipalities directly under the central government and all state council departments should send a report to the State Council about their investigations and the actions to be taken.

CSO: 4005/1182

PERIODICAL PUBLISHERS RESPONSIBLE FOR PROFITS, LOSSES

Beijing STATE COUNCIL BULLETIN in Chinese No 1, 20 Jan 85 pp 11-12

[State Council Circular on Periodical Publishing Institutions Assuming Responsibility for Their Own Profits and Losses (29 December 1984)]

(Guofa [0948 4099] (1984) No 187)

[Text] In order to urge the various periodical publishing institutions that have been granted permission for their publications and that have formally registered in the government publication administration departments, to improve their quality, strengthen their administration, improve their management, and shoulder sole responsibility for their own profits and losses so as to meet the demand of the four modernizations and the economic reform, we specially issue this circular:

1. For the various departments of the CPC Central Committee and the State Council, the various central mass organizations, the various provincial autonomous regional and municipal organs and mass organizations, and the various scientific research institutes and higher education institutes throughout the country, satisfactory publication of periodicals that guide the work in these departments and units, publish theses on scientific research, and popularize the application of technology, is an important part of their operation and scientific research work. All these departments and units should strengthen their leadership over these periodicals, promote the improvement of their quality and make them play their due role. In principle, these periodicals should be managed to avoid suffering losses, but in the period before achieving this aim, the responsible units may continue to give fixed amount of subsidies to them. If it is indeed necessary for a unit to simultaneously run several periodicals, the profits earned from one periodical can be used to offset the losses of another.

2. In order to make socialist literary and creative art work prosperous, each literary and art sector at the central level is allowed to have one periodical for publishing the works in this sector, the Chinese Writers Association can have two large literature periodicals, and each province, autonomous region or municipality can have one or two periodicals for the literary and art works created there. These periodicals should also avoid suffering losses in their

operation. In the period before achieving this aim, the responsible units may continue to give fixed amounts of subsidies.

No subsidy can be paid out of government administration expenses to literary and art periodicals run by prefectural administrative offices, cities and counties below the provincial, regional and municipal level.

3. It continues to be necessary to subsidize the periodicals published in foreign languages or in the languages of minority nationalities.

4. If the above-mentioned various kinds of periodicals are of the central level, approval of the leadership of the responsible ministry and commission or of the leadership of the same level, that is, ministry or commission level, must be obtained; if the periodicals are of provincial, regional or municipal level, approval of the corresponding provincial, regional, or municipal people's government must be obtained for all of them. The financial departments at various levels should undertake the relevant procedures in accordance with the documents of approval. All the various kinds of above-mentioned periodicals that have obtained approval for continuously granted subsidies must report to the Ministry of Culture or the State Science Commission so as to facilitate inspection.

5. The various kinds of above-mentioned periodicals that continue to be subsidized should operate as independent accounting units (all labor and administrative expenses should be included in their costs). They should conscientiously improve their administration and management, conduct careful calculation and strict budgeting, eliminate the practice of waste, make efforts to improve their quality, increase their circulation, reduce their losses step by step and strive to become able to shoulder sole responsibility for their own profits and losses as soon as possible.

6. All periodicals beyond the scope of the operation and fields of the departments and units concerned, and the various kinds of periodicals in excess of the quotas stipulated in paragraphs 1, 2 and 3 must operate as independent accounting units and shoulder sole responsibility for their profits and losses. No subsidy will be given to any of them. All existing subsidies will be abolished beginning from 1 January 1985.

7. Because of the increase in paper prices and in printing and circulation costs, rational price hikes are allowed for periodicals in accordance with the regulations on the readjustment of prices of books, newspapers and magazines approved by the State Council and on the basis of the principle of avoiding losses and earning small profits.

8. At present, many units subscribe to newspapers and magazines at public expense for their responsible persons and cadres, thus resulting in great waste. In the future, except for the newspapers and magazines that are normally needed for the libraries, reading rooms, reference rooms, cultural clubs and offices, and the newspapers read by staff and workers on a collec-

collective basis, no other unit is allowed to subscribe for any individual to any newspaper or magazine at public expense.

9. The General Political Department of the PLA is requested to draw up corresponding regulations in accordance with the above spirit for the various kinds of periodicals run by the organizations under the PLA.

CSO: 4005/1182

CIRCULAR ON STOPPING INDISCRIMINATE SPREAD OF FREE LUNCHES

Beijing STATE COUNCIL BULLETIN in Chinese No 1, 20 Jan 85 p 13

[State Council General Office Circular on Stopping Indiscriminate Expansion of Scope of Free Lunch Supply (3 January 1985)]

(Guobanfa [0948 6586 4099] (1985) No 1)

[Text] Recently, some enterprises decided by themselves to supply free lunch for their staff and workers. This malpractice has given rise to a chain reaction and has had quite a great impact on our economy. At present, the level of our country's economic development is low, we are still not rich in our economy. If we supply free lunch for this existing staff and workers in the country, our expenses will increase by about 10 billion yuan a year and the state's financial resources are unable to bear this burden. For this reason, the State Council General Office specially delivers the following circular:

1. Except for the staff and workers operating underground in the coal mines or working in the 50 tourist restaurants, who are approved by the State Council to enjoy free meals when they are on duty, no other state-owned enterprises, institutions, or administrative organizations are allowed to supply free lunch for their staff and workers.
2. The state-owned enterprises and institutions which have been supplying free lunch on their own for their staff and workers without the approval of the State Council, must immediately correct this mistake on the basis of doing a good job in ideological work among their staff and workers. Expenses that were already incurred should be disbursed with the bonus funds and be included in the total bonus payments and a bonus tax will be levied according to stipulations. None of these payments are allowed to be included in production costs (expenses) or fees for administration and undertakings.
3. Government at all levels and the various enterprises, institutions and administrative organizations should all attach importance to their political and ideological work in conducting economic reform, and must be concerned about the livelihood of their staff and workers and strive to satisfactorily run canteens for them. They should patiently do a good job of giving explanations to their staff and workers on some of the practical livelihood problems that cannot be solved for the time being.

CSO: 4005/1182

CIRCULAR ON ESTABLISHMENT OF STATE NUCLEAR SAFETY BUREAU

Beijing STATE COUNCIL BULLETIN in Chinese No 1, 20 Jan 85 p 13

[State Council General Office Circular on Establishment of a State Nuclear Safety Bureau (20 December 1984)]

(Guobanfa [0948 6586 4099] (1984), No 109)

[Text] With the approval of the State Council, the State Nuclear Safety Bureau is established by the State Science and Technology Commission. The task of this bureau is: In accordance with the guidelines and policies of the party and the state, and the relevant decrees, laws and regulations, the bureau will carry out nuclear safety examination on and supervision and administration over civil nuclear installations in our country in order to insure the safety and smooth development of our country's undertaking of the peaceful utilization of nuclear energy.

In order to meet the needs of our work, generally the State Nuclear Safety Bureau may issue documents on its own or jointly with the relevant ministries and commissions under the State Council. The people of the bureau may be invited to participate in relevant meetings and relevant documents, telegrams and materials may be sent to them directly in order to enable the work to be better done.

CSO: 4005/1182

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SEPTEMBER 16, 1985

